CASE NO.: 07-0278-KD-M

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA SOUTHERN DIVISION

RE'NAUL M. JOHNSON (Ariel Aasiya Adla), Plaintiff,

VS.

HONORABLE RICHARD FRANK ALLEN, Commissioner, Alabama Department Of Corrections, (A.D.O.C.), et al., Defendant(s).

PLAINTIFF'S MEMORANDUM OF LAW AND BRIEF IN SUPPORT OF APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND/OR IN THE ALTERNATIVE APPLICATION FOR A PRELIMINARY INJUNCTION

Re'Naul M. Johnson, (Ariel Aasiya Adla), Plaintiff, pro se,

Re'Naul M. Johnson, #166237 (Ariel Aasiya Adla), G.K. Fountain Correctional Center Fountain 3800 Atmore, Alabama 36503-3800

STATEMENT REGARDING ORAL AGRUMENT

Pursuant to the Federal Rule(s) Of Court-Federal Rule(s) Of Civil

Procedure (Fed. R. Civ. P.), Rule 65, the Plaintiff, as listed and named within
the written content(s) of this instant said cause of action does hereby
immediately request an oral argument, in regards to the referenced Application
For A Temporary Restraining Order and/or in the alternative Application For A
Preliminary Injunction.

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STATEMENT OF THE CASE

This is a civil rights action brought under 42 United States Constitution (U.S.C.) §1983 Civil Rights Complaint, by a prisoner (inmate) incarcerated within the confinements of the Alabama Department Of Corrections, thereby challenging, the cruel and unusual punishment, through, the listed and named added Defendant(s), being deliberate indifferent, through, the denial, failure and refusal to provide the Petitioner, with a constitutionally structured, prescribed and employed adequate standard medical care, treatment and therapy, in direct violation of the Eighth (8th) Amendment of the United States Constitution, and the Alabama Department Of Corrections - Administrative Regulation #637, **GENDER IDENTITY DISORDER**.

STATEMENT OF THE FACT(S)

For year(s) prior to October 21, 2004, at the time, in which the Plaintiff, entered the physical custody of the Alabama Department Of Corrections, from the custody of the Housotn County Jail, Dothan, Alabama, the Plaintiff had ben medically, psychiartically and psychologically diagnosed with the diagnosis of Gender Dysphoria-Transsexual Type, Male-To-Female. The Plaintiff was subsequently being treated with anti-depressant(s), specifically Effexor, along with female hormonal therapy, namely Premarin, at 1.25 mg., Three (3) times (per) each day.

Upon, the Plaintiff entering, the Alabama Department Of Corrections, at Kilby Correctional Center, on October 21, 2004, the contracted medical personnel of the Alabama Department Of Corrections, specifically, Prison Healthcare Services (PHS), in which is thereby contracted to assume the lawful responsibility of the Alabama Department Of Corrections, thereby refused to re-instate, the Plaintiff's female homonal therapy, as had been received, by the Plaintiff, for year(s), prior to the Plaintiff's current incarceration within the physical custody of the Alabama Department Of Corrections.

On October 21, 2004, upon the Plaintiff, entering the Alabama Department Of Corrections, at Kilby Correctional Center, the Receiving Intake Unit, for the Alabama Department Of Corrections, the Plaintiff, on November 18, 2004 was transfered to G.K. Fountain Correctional Center, Fountain 3800, Atmore, Alabama 36503-3800. On December 3, 2004, initial psychiatric assessment was conducted on the Plaintiff, by Dr. Donna Earnshaw, M.D., employed, by Mental Healthcare Management, contracted by, the Alabama Department Of Corrections and assigned to G.K. Fountain Correctional Center, as the Institutional Psychiatrist, in which, at that time Dr. Earnshaw, confirmed, the Plaintiff's free-world medical diagnosis, and as a subsequent result, Dr. Earnshaw, M.D., concurred with the medical diagnosis of the Plaintiff's, free-world medical and mental healthcare team, thereby she made a concurrent diagnosis, diagnosing, the Plaintiff with Gender Dysphoria-Transsexaul Type, Male-To-Female. (Exhibit A & B)

At this point, Dr. Earnshaw, M.D., specifically recommended to Dr. Robert Barnes, M.D., employed, by Prison Healthcare Services (PHS), as the Institutional Medical Physician, also contracted, by the Alabama Department Of Corrections to accept the dutiful and lawful responsibilities, for inmate healthcare, according to her competent professionalism, for the Plaintiff to be re-instated, the female hormonal therapy, as received, by the Plaintiff, prior to the Plaintiff's current incarceration within the physical custody of the Alabama Department Of Corrections. However, after repeated attempts, on behalf of the Plaintiff and Dr. Earshaw, M.D. to have the Plaintiff's female hormonal therapy re-instated to that, in which, the Plaintiff received prior to the Plaintiff's current incarceration into the Alabama Department Of Corrections,

Dr. Barnes, M.D., from December, 2004, through, May 26, 2006, repeatedly refuse to re-instate, the Plaintiff's female hormonal therapy, as received, by the Plaintiff, prior to the Plaintiff's current incarceration.

On February 18, 2005, Jerry Ferrell, Head Warden, G.K. Fountain Correctional Center, Fountain 3800, Atmore, Alabama 36503-3800, within the contents of a written affidavit of Warden Ferrell, as submitted to the court, regarding unrelated matter, Warden Ferrell, stated that, the Plaintiff's as listed and named within this instant said cause medical complaints have centered around the Plaintiff seeking a "sex change" procedure and/or hormone therapy. Within the content(s) of Warden Ferrell's written affidavit, he further stated that, "as a warden of a male correctional facility and as a taxpayer of the State Of Alabama and this Defendant (he/Warden Ferrell) hopes and prays that medical treatment in that form is denied and will continue to be denied. This Defendant (he/Warden Ferrell) avers that Plaintiff has not been denied other reasonable medical treatment." (See Exhibit C)

The Plaintiff, hereby argues that within the contents of the written affidavit of Warden Ferrell that, Warden Ferrell acknowledged that he was well aware of the Plaintiff's complaint alleging that the Plaintiff was denied the same standard constitutionally adequate medical care, therapy and treatment, as received, by the Plaintiff, prior to the Plaintiff's current incarceration, for the Plaintiff's medical diagnosis of Gender Dysphoria-Transsexual Type, Male-To-Female,

in which is thereby constitutionally recognized to constitute to a serious medical need and that Warden Ferrell having this knowledge of such denial and condoning and/or going alone with such unconstitutional conduct, as experienced, by the Plaintiff, by the Defendant(s), as listed and named within this instant said cause of action.

On November 16, 2005, the Alabama Department Of Corrections. thereby published, an administrative regulation, the Alabama Department Of Corrections-Administrative Regulation, #637, Gender Identity Disorders(s), in which was designed to provide a constitutionally adequate and accepted standard form of diagnosing, providing and rendering medical care, treatment and therapy, for all inmate(s), in which was diagnosed with a Gender Identity Disorder(s). However, from November 16, 2005, through, May 26, 2006, Dr. Robert Barnes, M.D., employed, by Prison Healthcare Services (PHS), also contracted, by the Alabama Department Of Corrections to accept the dutiful and lawful responsibilities, for inmate healthcare, Dr. Ron Cavanaugh, M.D., and/or Dr. George Lyrene, M.D., employed, by the Alabama Department Of Corrections, as Medical Director, repeatedly failed and refused to adhere and follow its own governing authority, pursuant ot its own published administrative regulation, thereof, the Alabama Department Of Corrections-Administrative Regulation, #637, Gender Identity Disorder(s). (See Exhibit D)

On May 27, 2006, Dr. Robert Barnes, M.D., finally prescribed, and thereby re-instated, the equivalent to the Plaintiff's, female hormonal therapy,

through, September 23, 2006, as received, prior to the Plaintiff current incarceration within the Alabama Department Of Corrections, Menest, at 1.25 mg., at Three (3) times (per) each day. (See Exhibit E) However, on July 27, 2006, without consulting Dr. Sylvia McQueen, M.D., employed, by Prison Healthcare Services (PHS), as Director Of Inmate Medical Treatment, Dr. Robert Barnes, M.D., the Institutional Medical Physician of G.K. Fountain Correctional Center, and Dr. Donna Earnshaw, M.D., Institutional Psychiatrist, Dr. George Lyrene, M.D., employed, by the State Of Alabama Department Of Corrections, as Assistant Medical Director without valid reason, regard or professional respect, for the professional decision(s) towards of his professional colleague(s), thereby discontinued, before, the prescription had expired, the regulated, female hormone therapy, as prescribed and received, by the Plaintiff, in which was equivalent to the same employed constitutional adequate standard medical care, treatment and therapy, as the Plaintiff received, prior to the Plaintiff's current incarceration within the physical custody of the Alabama Department Of Corrections.

After, repeated attempt(s) to no avail, on behalf of the Plaintiff to try and persuade the Alabama Department Of Corrections to adhere and follow it's own published authority of the Alabama Department Of Corrections-Administrative Regulation #637, Gender Identity Disorder(s), to provide and render, the Plaintiff with the same employed constitutional adequate and standard medical, treatment and therapy, as prescribed and received, by the

Plaintiff's, prior to the Plaintiff's current incarceration within the Alabama Department Of Corrections, in regards to the Plaintiff's medical diagnosis of Gender Dysphoria-Transsexual Type, Male-To-Female, as previously and concurrently diagnosed and medically treated, prior to the Plaintiff's current incarceration within the Alabama Department Of Corrections.

Since the Plaintiff physical incarceration within the confinement of the Alabama Department Of Corrections, through, their deliberate indifference to the United States Constitution, along with their own administrative authority the Alabama Department Of Corrections-Administrative Regulation #637. Gender Identity Disorder(s) has been deprived of a constitutional structured prescribed standard of medical care, treatment and therapy, and therefore, as a subsequent result, the Plaintiff ahs suffered irreparable damage harm and injury, in which was the Defendant(s), as listed and named within this instant said cause of action was the proximate cause of these injuries. As a result of the Plaintiff's deprivation, received, as a subsequent result of the Defendant(s) conduct. the Plaintiff has experienced, excessive weight gain that has not been able to be controlled, complete body fat redistribution, dizzy spells, fainting spells, headaches, hot-flashes, anxiety, severe depression, more than usual depression, as associated with this particular and specific diagnosis, the growth of first time facial skin scarring, as a subsequent result, the Plaintiff being required to shave facial, in an effort of having to remove such facial hair, due to the inmate rule(s) and regulation(s) of my immediate incarcerated environment regarding facial hair.

(See Exhibit(s) F, G, & H)

Upon, April, 2005, Dr. Robert Barnes, M.D., verifying, the Plaintiff's Neurological diagnosis, for Sleep Apnea - Narcolepsy, as diagnosed, by the Plaintiff's, free-world neurological, Dr. Allan Prince, M.D., Dothan, Alabama, Dr. Barnes, M.D., concurred with Dr. Allan Prince's written prescribed order and/or instruction, thereby prescribing, the Plaintiff, a C-Pap Machine. On four (4) different, distinct and separate occasion(s) Dr. Barnes, M.D., wrote his written prescribed order and/or instruction, for the Plaintiff to receive a C-Pap Machine to no avail, for the authorities of Prison Healthcare Services (PHS) repeatedly failed to adhere and follow his written prescribed order and/or instruction, for the Plaintiff to receive a C-Pap Machine. The unconstitutional conduct of Prison Healthcare Services (PHS) has been the proximate cause the Plaintiff to suffer with irreparable harm injury.

This civil right(s) action, pursuant to 42 United States Constitution (U.S.C.) 1983, thereby seeking, a Temporary Restraining Order And/Or Preliminary Injunction, hereby follow(s).

GROUND(S) PRESENTED

ISSUE I.

WHETHER THE PLAINTIFF WAS SUBJECTED TO CRUEL AND UNUSUAL PUNISHMENT, IN VIOLATION OF THE EIGHTH (8TH) AMENDMENT OF THE UNITED STATES CONSTITUTION (U.S.C.),
BY BEING DENIED A CONSTITUTIONALLY PRESCRIBED EMPLOYED ADEQUATE
STANDARD MEDICAL CARE, TREATMENT AND/OR THERAPY

ARGUMENT

ISSUE I.

WHETHER THE PLAINTIFF WAS SUBJECTED TO CRUEL AND UNUSUAL PUNISHMENT, IN VIOLATION OF THE EIGHTH (8TH) AMENDMENT OF THE UNITED STATES CONSTITUTION (U.S.C.), BY BEING DENIED A CONSTITUTIONALLY PRESCRIBED EMPLOYED ADEQUATE

STANDARD MEDICAL CARE, TREATMENT AND/OR THERAPY

THE PETITIONER IS ENTITLED THE ISSUANCE OF A TEMPORARY RESTRAINING ORDER AND/OR IN THE ALTERNATIVE PRELIMINARY INJUNCTION

In determining whether a party is entitled to a Temporary Restraining Order or a Preliminary Injunction, courts generally consider several factors; whether the party will suffer irreparable injury, the "balance of hardships" between the parties, the likelihood of success on the merits, and the public

interest. Each of these factors favors the grant of this motion, thereof.

In deciding whether the court should grant a Temporary Restraining

Order and/or in the alternative An Application For A Preliminary Injunction,
they should as whether the suffering of the moving party, which, in this case,
would be the Petitioner, if the motion is denied will it outweigh the suffering of
the non-moving party, in which, in this case will be the Alabama Department Of
Corrections, along with their contracted agent(s), thereof, if the motion is granted.
See, e.g., Mitchell v. Cuomo, 748 F.2d 804, 808 (2nd Cir.1984)(holding that
dangers posed by prison crowding outweighed the state's financial and
administrative concerns); Duran v. Anaya, 642 F.Supp. 510, 527 (D.N.M.
1986)(holding that prisoners' interest in the safety and medical care outweighed
the state's interest in saving money by cutting staff).

A. The Petitioner Is Likely To Succeed On The Merits

The Petitioner has a great likelihood of success on the merits, as presented within the written contents of this instant said cause of action. What the Respondent(s), and agent(s), as listed and named, thereby, arose, from the action(s) of the intentional conduct of deliberate indifference. The listed and named Respondent(s), and/or their contracted agent(s), thereof, are directly responsible, for twice interfering with an established prescribed standard of medical care, treatment and therapy, thereof. The first (1st) interference occurred, on October 21, 2006, upon, the Petitioner, entering,

the physical care, custody and control of the Alabama Department Of Corrections, and the second (2nd) occasion, thereby, occurred on July 26, 2006, by Dr. George Lyrene, Director Of Inmate Medical Treatment, Alabama Department Of Corrections. These action(s) of the listed and named Respondent(s) and/or their agents, intentionally interfering with an established prescribed standard of medical care, treatment and therapy, once prescribed, by qualified specialist, has been singled out, by the United States Supreme Court, as an example of unconstitutional "deliberate indifference" to prisoners' medical needs. Estelle v. Gamble, 429 U.S. 97, 105, 97 S.Ct. 285 (1976). Many other courts have held that the failure to carry out physicians' orders is unconstitutional. See, e.g., Aswegan . Bruhl, 965 F.2d 676, 677-678 (8th Cir. 1992)(repeated failures to provide dedications timely); Hill v. Marshall, 962 F.2d 1209, 1213-1214 (6th Cir. 1992)(failure to provide Tuberculosis medication), cert. denied, ____ U.S. (1993); Dace v. Solem, 858 F.2d 385, 387-388 (8th Cir.1988) (failure of prison doctors to carry out surgery scheduled before plaintiff's incarceration); Washington v. Dugger, 860 F.2d 1018, 1012 (11th Cir. 1988)(failure to return patient to VA Hospital for medical care and treatment for Agent Orange Exposure); Lafual v. Smith, 834 F.2d 389, 393-394 (4th Cir. 1987)(failure to provide rehabilitation therapy recommended by orthopedic specialist).

B. The Petitioner Is Threatened With Irreparable Harm

The Petitioner, alleges, that he has been denied care of what is constitutionally constituted to be a serious medical need contrary to a medical physician's (Dr. George Lyrene, M.D., Director Inmate Treatment, for the Alabama Department Of Corrections) written prescribed medical order and instruction to discontinue a similar standard medical care, treatment and therapy, received, by the Petitioner, prior to the Petitioner's current incarceration.

Such conduct, by the Alabama Department Of Corrections and its listed and named contract agents, thereof, is a clear and direct violation of the Eighth (8th)

Amendment of the United States Constitution. As a matter of law, the continuing deprivation of constitutional rights constitutes irreparable harm. Elrod v. Burns,

427 U.S. 347, 373, 96 S.Ct. 2673 (1976). This principle has been applied in prison litigation generally, see Newsom v. Norris, 888 F.2d 371, 378 (6th Cir. 1989); Mitchell v. Cuomo, 748 F.2d 804, 806 (2nd Cir. 1984);

Albro v. County Of Onondaga, N.Y., 627 F.Supp. 1280, 1287

(N.D.N.Y. 1986); Williams v. Lane, 646 F.Supp. 1379, 1409 (N.D.III. 1986), aff'd, 851 F.2d 867 (7th Cir. 1988), cert. denied, 109 S.Ct. 879 (1989), and specifically in prison medical carecases. Phillips v. Michigan Department

Of Corrections, 731 F.Supp. 792, 801 (W.D.Mich. 1990), aff'd, 932 F.2d (6th Cir. 1991).

In addition, the Petitioner, has received irreparable harm, such as, excessive weight gain, complete body fat redistribution, dizzy spells, fainting spells, headaches, hot-flashes, anxiety, severe depression, more than usual depression, as associated with this particular and specific diagnosis, the growth of first time facial skin scarring, as a subsequent result of having shave my face, in an effort of having to remove my hair, due to the inmate rules and regulations of my immediate incarcerated environment regarding facial hair facial hair, and the nature of the deprivation, in which, the Alabama Department Of Corrections, along with their contracted agent(s), thereof, has thereby, caused the actual reversal of years of therapeutic effects, as obtained and maintained, through, the course of previous estrogen (hormonal) medical treatment and therapy.

Under the Estelle formulation, case law supports, the proposition that Gender Dysphoria, does, in deed present a serious medical need. See 821 F.2d at 413 (citing Partridge v. Two Unknown Police Officers Of Houston, 791 F.2d 1182, 1187 (5th Cir. 1986); Wellman v. Faulkner, 715 F.2d 269, 273 (7th Cir.), cert. denied, 468 U.S. 1217, 104 S.Ct. 3587, 82 L.Ed.2d 885 (1983); Ramos v. Lamm, 639 F.2d 559, 574 (10th Cir.), cert. denied, 450 U.S. 1041, 101 S.Ct. 1759, 68 L.Ed.2d 239 (1980); Inmates Of Allegheny County Jail v. Pierce, 612 F.2d 745, 763 (3rd Cir. 1979); Bowing v. Godwin, 551 F.2d 44, 47 (4th Cir. 1977). Moreover, when an alleged deprivation of a constitutional right is involved, no further showing of irreparable harm is necessary. See, e.g.,

<u>Mitchell v. Cuomo</u>, 748 F.2d 804 (2nd Cir. 1984) (Eighth (8th) Amendment, United States Constitution).

C. Whether Issuance Of A Temporary Restraining Order And/Or Preliminary Injunction Would Not Cause Substantial Harm Or Injury To Others

The Petitioner, argues, that the purpose of the preliminary injunction is to preserve the status quo pending final determination of the lawsuit.

<u>University Of Texas v. Comenisch</u>, 451 U.S. 390, 395, 101 S.Ct. 1830, 1834, 68 L.Ed.2d 175 (1981). Preliminary injunctions are addressed to the discretion of the court. <u>Synanon Foundation, Inc. v. California</u>, 444 U.S. 1307, 100 S.Ct. 496, 62 L.Ed.2d 454 (1979). This type of relief is an extra-ordinary remedy best used sparingly. <u>Roghan v. Block</u>, 590 F.Supp. 150 (W.D.Mich. 1984).

United States Circuit Court(s) have previously cautioned state courts that they should not view these factors as prerequisites to relief, but rather as factors to be balanced. In re DeLorean Motor Co., 755 F.2d 1233 (6th Cir. 1985). Thus, a court can enter a preliminary injunction if it finds that the Petitioner "at least shows serious questions going to the merits and irreparable harm which decidedly outweighs any potential harm to the Defendant(s), as listed and named within this instant said cause of action, if an injunction is issued." Friendship Materials, Inc. v. Michigan Brick, Inc.,

weigh as heavily on the Respondent(s), as on the Petitioner [, however], the Plaintiff must make a showing of at least a 'strong probability of success on the merits' before a trial court would be justified in issuing the order."

Frisch's Restaurant Inc. v. Shoney's, Inc., 759 F.2d 1261, 1270

(6th Cri. 1985). Also, as the strength of showing as to irreparable harm increases, the necessity to show likelihood of success on the merits decreases. Ardis v. Mansour, 627 F.Supp. 641, 644 (W.D.Mich. 1986).

Yet inspite of the overall flexibility of the test for preliminary injunctive relief, the Sixth (6th) Circuit of the United States has stated that irreparable harm element is to be analyzed carefully. Friendship Materials, Inc. v.

Michigan Brick, Inc., the court said:

Despite the overall flexibility of the test for preliminary injunctive relief, and the discretion vested in the District Court of the United States, equity has traditionally required [a showing of] irreparable harm before interlocutory injunction may be issued.

679 F.2d 100, 103 (6th Cir. 1982).

In this case, the suffering of the Petitioner and all other future suffering, through, the deliberate indifferent conduct of the Respondent(s), as listed and named within this instant said cause of action, has thereby, and will continue to reverse the therapeutic effects of Estrogen Hormonal Medical Therapy, Care and Treatment, as obtained, through years of previous estrogen hormonal medical therapy, care and treatment, as received, as a constitutionally

recognized standard medical care, therapy and treatment, by the Plaintiff's, prior to the Plaintiff's current incarceration within the Alabama Department Of Corrections. Phillips v. Michigan Department Of Corrections, 731 F.Supp 792.

D. Whether The Public Interest Would Be Best Served By Issuing A Preliminary Injunction

In this instant said cause of action, the granting the Plaintiff's relief will in deed and in fact serve the public's best interest, because it is always in the public's best interest, for prison officials to adhere to the constitutional rights of the inmates, in which are confined within their immediate physical care, custody and control. **<u>Duran v. Anaya</u>**, 642 F.Supp. 510, 527 (D.N.M. 1986) ("Respect for the law particularly by prison officials in which are responsible for the administration of the state's correctional system is in and of itself a matter of the highest public interest."); Also See, Llewelyn v. Oakland County Prosecutor's Office, 402 F.Supp. 1379, 1393 (E.D.Mich. 1975)("the United States Constitution is the ultimate expression of the public interest"). Therefore, it is in the best interest of the public to adhere to the authority of the law, in which, governs, the provision(s) of the circumstances that are being thereby challenged. Forry, Inc. v. Neundorfer, Inc., 837 F.2d 259, 262 (6th Cir. 1988); Mason County Medical Association v. Knebel, 563 F.2d 256, 261 (6th Cir. 1977).

CONCLUSION

For the foregoing reason(s), the court should grant in its entirety, the Plaintiff's, Application For Temporary Restraining Order and/or in the alternative Preliminary Injunction, along with any and all other equitable relief, in which this Most Honorable Court deems appropriate, necessary and proper, theretofore.

Respectfully Submitted,

Re'Naul M. Johnson, #166237,

(Ariel A. Adla) **Plaintiff, pro se,**

CERTIFICATE OF SERVICE

I do hereby certify that on this 4th day of _________, 2007, I have served a copy of the foregoing Plaintiff's, Memorandum Of Law And Brief In Support Of Application For A Temporary Restraining Order And/Or In The Alternative Application For A Preliminary Injunction, by placing, a true and exact copy of same within the Internal Inmate Mailing System, at G.K. Fountain Correctional Center, Fountain 3800, Atmore, Alabama 36503-3800 (United States Mail), postage pre-paid and properly addressed, as hereby, follows:

Alabama Department Of Corrections Legal Division ATTN: Honorable Tara S. Knee Assistant General Counsel Assistant Attorney General 101 Union Street Post Office Box 301555 Montgomery, Alabama 36130

Respectfully Submitted,

Re'Naul M. Johnson, #166237,

(Ariel A. Adla)

G.K. Fountain Corr. Center

Fountain 3800

Atmore, Alabama 36503-3800

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CHART #

DATE 6-13-02

ARIEL ADLA JUNE 13, 2003

This young lady is a transexual and has been treated for

the past year.

She's not allergic to anything. She's been on estrogen for about a year and a half and stopped. Insurance has changed. She's taking care of three kids and she's busy. She's planning a surgery with Johns Hopkins at Tampa. She has been cleared with Dr. Ferrell who referred her up here. She has no history of lupus or any hypertension problems, although today her blood pressure is up and she's guite heavy.

Heart sounds, Normal. Carotids, normal. Thyroid, She says her blood pressure stays normal at normal. home.

PLAN;

Premarin 0.3, twice a day 1.

RTC three weeks. If pressure is not down then, we'll add Aldactone. We'll see.

JHB/ch

Ht 5182" BIP

ARIEL ADLA JUNE 30, 2003

SUB.;

She's doing quite well. She's taking her medication. She stopped the Effexor on her own. She's taking Premarin 0.32 a day without problems. Her blood pressure is acceptable.

PLAN:

1. Add Aldactone, loomg. day, using generic.

2. RTC six months

JHB/ch



IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

RE'NAUL M. JOHNSON, (#166237),)
Petitioner,)
vs.) CIVIL ACTION NO. CV-2005-645
ALABAMA DEPARTMENT OF)
CORRECTIONS, et al.,)
Respondents.)

Affidavit of Robert Hunter, MD

Before me, the undersigned authority, a Notary Public, in and for said County and State of Alabama at Large, personally appeared Robert Hunter, MD, who being known to me and being by me first duly sworn, deposes and says on oath as follows:

My name is Robert Hunter, MD, and I am over twenty-one (21) years of age. Upon the request of Ron Cavanaugh, PsyD, Alabama Department of Corrections, Director of Treatment, I reviewed the records of ReNaul Johnson AIS #166237 and prepared the attached Memorandum dated May 4, 2006.

Robert Hunter, MD

MHM, Inc. Alabama

SWORN TO AND SUBSCRIBED before me this 5th day of May, 2006.

MY COMMISSION EXPIRES 3/6/08

1

Memo

To: Ron Cavanaugh, PsyD

ADOC, Director of Treatment

From: Robert Hunter MD

MHM, Inc Alabama

Date: May 4, 2006

Re: Inmate Re'Naul Johnson #166237

This is a treatment summary on inmate Re'Naul Johnson #166237, who is a 38 year old African American, presently incarcerated at Fountain Correctional Facility. This summary is based on review of the mental health records from December 2004 to present, including his initial psychiatric assessment by Donna Earnshaw, MD on December 3, 2004, as well as subsequent progress notes. Mr. Johnson is a pre-op transsexual treated with Premarin for at least a seven year period prior to incarceration. He had been living as a "woman" for some time and was expecting to have sexual reassignment surgery prior to his arrest. Since being in ADOC custody he has not been on any hormonal treatment, resulting in the inmate seeking redress through the courts. He has suffered from anxiety and depression associated with the before mentioned concerns, and as such has been followed by the mental health staff at Fountain. His initial psychiatric assessment noted him as being quite feminine in appearance and demeanor, but otherwise normal except for situational anxiety. He was given a diagnosis of Gender Identity Disorder and Adjustment Disorder with Mixed Features of Anxiety and Depression. He has been prescribed antidepressants, such as Effexor, Prozac and Wellbutrin at various times. Presently, he is on Wellbutrin 150 mg per day and Trazadone 50 mg at bedtime. His treatment course has been fairly stable. There have been no episodes of self-injurious or suicidal behavior; or any instances of aggression or violence. He has been free of any psychotic symptoms. He continues to have anxiety and depression, which seems situational. His compliance with treatment has varied. He regularly attends his sessions with his primary therapist, Dr. Lindman, as well as with Dr. Earnshaw. He has been resistant to involve himself in group therapy, and at times will not take his medication as prescribed. He will not go to pill call for fear of being around other inmates. He continues to assert the courts will rule in his favor for hormonal therapy and remains insistent for this procedure.

If there are any further questions, please feel free to contact me at 334-264-9460.

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EXHIBIT C

IN THE CIRCUIT COURT OF ESCAMBIA COUNTY ALABAMA

RE'NAUL M. JOHNSON)
Plaintiff,)
v.)) CV 2005-21.60
JERRY FERRELL, et. al)
Defendant)

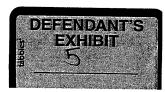
AFFIDAVIT

Before me, the undersigned authority, personally appeared Jerry Ferrell, who is known to me, and who, after being by me first duly sworn according to the law deposes and says that he is informed of and has personal knowledge of the matters set forth in this Affidavit.

My name is Jerry Ferrell. I am currently employed as Warden III with the State of Alabama Department of Corrections at Fountain Correctional Facility, Atmore, Alabama. I am over twenty-one years of age.

I have read Case No. CV-2005-21.60 and understand plaintiff to allege that he has been denied medical, dental, and psychological treatment while assigned at G.K. Fountain Correctional Center and that as a result plaintiff has suffered pain and mental anguish.

This defendant avers that medical, dental and psychological treatment is available. Inmates request medical, dental treatment via institutional medical/dental screening. This defendant avers that plaintiff has been seen for medical and dental complaints. Plaintiff's medical complaints have centered around plaintiff seeking a "sex change" procedure and/or hormone therapy. As a warden



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of a male correctional facility and as a taxpayer of the State of Alabama this defendant hopes and

prays that medical treatment in that form is denied and will continue to be denied. This defendant

avers that plaintiff has not been denied other reasonable medical treatment.

This defendant avers that plaintiff has requested and received dental treatment. Records

reflect that dental personnel have recommended an extraction of plaintiff's tooth but plaintiff has

refused an extraction and requested a temporary filling and has twice received a temporary filling

per his request.

Records also reflect plaintiff is seeing mental health on a regular basis and is being treated

with medication.

This defendant avers that medical, dental and psychological treatment has been and continues

to be received by plaintiff, less and except a sex change procedure and/or hormone treatment.

FURTHER AFFIANT SAYETH NAUGHT.

JERRY FERRELL

Sworn and subscribed to before me this _____ day of February 2005.

NOTARY PUBLIC

My Commission Expires Aug. 20, 2007

MY COMMISSION EXPIRES



GOVERNOR

State of Alabama Alabama Department of Corrections

301 South Ripley Street P. O. Box 301501 Montgomery, AL 36130



Donal Campbell COMMISSIONER

November 16, 2005

ADMINISTRATIVE REGULATION **NUMBER** 637

OPR: TREATMENT

GENDER IDENTITY DISORDER

I. **GENERAL**

This Alabama Department of Corrections (ADOC) Administrative Regulation (AR) establishes the responsibilities, policies, and procedures to ensure a standard of care for the treatment of transsexual inmates.

П. **POLICY**

It is the policy of the ADOC to provide the appropriate treatment to inmates meeting the criteria for the DSM-IV diagnosis of Gender Identity Disorder.

III. **DEFINITIONS**

See AR 602, Mental Health Definitions, for a definition of the following terms used in this AR:

Gender Identity Disorder

Hormonal Replacement Treatment

Sexual Reassignment Therapy

Sex Offender

Transsexualism

Gender Identity Disorder Management and Treatment Committee

IV. <u>RESPONSIBILITIES</u>

- A. The Director of Treatment is responsible for ensuring that all ADOC staff and contracted mental health staff are aware of this AR.
- B. The Gender Identity Disorder Management and Treatment Committee is responsible for determining the appropriate treatment plan for identified inmates.

V. **PROCEDURES**

- A. Inmates will be assigned to an ADOC Institution in accordance with their gender as determined by their external genitalia.
- B. The initiation of sexual reassignment is prohibitive in a correctional setting. Self-inflicted genital mutilation or other forms of self-mutilation are contraindications for sexual reassignment treatment.
- Inmates entering ADOC with prior surgical alteration of genitals and/or hormonal therapy procedures will continue to receive maintenance hormone replacements.
- D. The institutional Psychiatrist will refer any inmate presenting with symptoms of Gender Identity Disorder to the Gender Identity Disorder Management and Treatment Committee.
 - 1. The committee is comprised of the ADOC Medical Director, Contract Chief Psychiatrist, and ADOC Director of Treatment.
 - 2. A medical specialist in the treatment of transsexuals may be retained as a consultant on specific cases.
 - 3. The diagnosis of Gender Identity Disorder will be based on DSM-IV criteria and will be assigned and/or approved by this committee. This committee will:
 - a. Conduct an evaluation of each identified inmate.
 - b. Develop an individualized treatment plan for each identified inmate.
 - c. The treatment plan will address medical, mental health, and personal adjustment needs.

E. Sexual reassignment treatment:

1. No surgical procedures for the purpose of sexual reassignment will be provided to any inmate incarcerated in the ADOC.

- 2. Treatment with hormonal medications for the purpose of sexual reassignment treatment will not be initiated while incarcerated in the ADOC.
- 3. An inmate receiving hormonal medications as part of an established sexual reassignment treatment regimen under the supervision of a medical doctor at the time of incarceration will be allowed to continue hormonal medications.
- Prior sexual reassignment treatment must be verified through the request of medical records.
- F. Statistical data gathered concerning inmates identified with a Gender Identity Disorder will be recorded on ADOC Form MH-015, *Psychological Evaluation* or ADOC Form MH-014, *Psychological Evaluation Update*, for monthly reporting to the ADOC Director of Treatment.

VI. <u>DISPOSITION</u>

Refer to AR 601, Mental Health Forms and Disposition.

VII. FORMS

Refer to AR 601, Mental Health Forms and Disposition, for any form(s) used in this regulation.

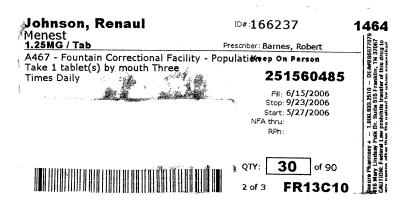
VIII. SUPERCEDES

This regulation being a new regulation does not supercede any other regulation at this time.

IX. PERFORMANCE This AR is published under the authority of:

- A. National Commission of Correctional Health Care: Standards for Health Services in Prisons 2003. (P-A-09).
- B. Department of Mental Health and Mental Retardation Statutory Authority: The Code of Alabama, 1975, Section 22-50-11.
- C. Health Insurance Portability and Accountability Act of 1996 (HIPAA).

Donal Campbell, Commissioner



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ALABAMA DEPARTMENT OF CORRECTIONS MENTAL HEALTH SERVICES OFFIDENTIAL MEDICAL RECOR PSYCHIATRIC EVALUATION PAGE 1

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PRISON HEALTH SERVICES

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Facility: Alabama Department of Corrections

Nursing Evaluation Tool:

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Nursing Evaluation Tool:

General Sick Call

FOR PROFESSIONAL USE ONLY

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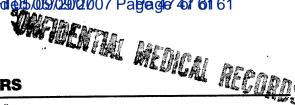
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MHM Correctional Services, Inc.





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PROGRESS NOTES

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PSYCHOLOGICAL INTERVIEW/DATA ENTRY FORM Page 2 III. Substance Abuse (continued) c. Current use d. Current addiction Other* (Specify): IV. Emotional Status No significant problems b. Depressed c. Anxious or stressful d. Angry or resentful e. Confusion or psychotic symptoms f. Mood disturbances g. Sexual maladjustment History of sex offenses? h. Paranoid ideation i. Sleep/appetite disorder Other* (Specify): (See Copy) Emotional response to incarceration: V:-Mental-Deficiency a. Mild d. Borderline e. Organic impairment suspected b. Moderate c. Severe f. Memory deficit Remarks: History of cerebral trauma or seizures? Yes

* See manual for selections and numbers for "other"

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## ONFIDENTIAL MEDICAL RECORDS

ALABAMA DEPARTMENT OF CORRECTIONS MENTAL HEALTH SERVICES TREATMENT PLAN: OUTPATIENT CARE-Treatment Plan Initiated On: 12-30-04 reatment Coordinator: Inmate's Housing Location: DSM IV Diagnosis: Axis I: Axis II: Axis III: Axis IV: Axis V: Problem #1 Góal: Pt will learn coping raethors to eliminate Target Date for Resolution: Intervention: ticipate in Self Conce prescriped medicat Staff Member Responsible: Frequency: Problem #2 Goal: Target Date for Resolution: Intervention: Staff Member Responsible: Frequency: Problem #3 Goal: Target Date for Resolution: Intervention: Staff Member Responsible: Second Page attached: Frequency: Yes 🛘 No 🗆 Treatment Team Members Psychiatrist: Mental Health Nurse: Date: Treatment Coordinator: Date: Date: 12-Inmate Agreement: Treatment Plan Review by: Date: (within six months) Inmate Name AIS# 166237

ALDOC Form 462-01

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DIAGNOSIS Gender Change, depression, HTN, COPD, a	nxiety PHYSIC	IAN .				$\dashv$	1	<b>/</b> 1		),/	// "	, 11	N	10	_	/	/ /									6	3				
PHYSICIAN D. Speigner CRNP	PHONE						1 1	<b>!</b>	PU	$\mathcal{H}$	NIL	W	Ul	40		(	ľ	7							g-		ķ				
PHYSICIAN NAME D. Speigner CRNP FACILITY SECTION SECTION		ROOI NO.	М			٦ '	V	- (	V	· ) •			L	/												3					
FACILITY - NAME Houston County Jail	*																							*							
PATIENT NAME Johnson, Renaul PHARMACY	PATIE NO.	NI 3400	าร													1								•	AL PROPERTY.				1		

#### PROBLEM LIST

Date	Chronic (Long-Term) Problems Roman Numerals for Medical/Surgical	Date	Health Care
Identified	Roman Numerals for Medical/Surgical	Resolved	Practitioner
	Capital Letters for Psychiatric/Behavioral		Initial
10/25/04	Storem NOS,		SPERM
10/25/04	Sender Fourty Disober NOS		11
10/25/04	1737 MM	!	-11
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# CasaseOV:007-00-00672-709-HKMD-TVFM DoDourcemterat 8 FileFolles57675/029/027007 Page 554 61 61 HEALTH INFORMATION TRANSFER SUMMARY

PH(334) 712-0762

901 EAST MAIN STREET

•	DOTHAN, ALABAMA 36301	. FAX(334) 671-948
	Confidential and Privi	ileged Information
	For Professions	al Use Only
	10/0//0//	
	Date:/0/21/04	
	Name: Johnstn Ronau	
	D. O. B.: 4-14-66	Sex: W/
generalism of the second se	Transferring To:	(110y
	·.	(Agency)
	Mala VD at 4/D at 4/D at 4/D at 4/D	And A Name
	Medical/Dental/Psychiatric Problems:	der A, depression,
	Allergies: Pundun	
•	Current Medication: No Yes	(If Yes, complete the following:)
	Current Production	(ir res, complete the tonowing.)
	(Drug/Dosage)	(Reason)
•		. 1 . 1
		VIW
	Tested/Treated for STD:	
Andreas and the second	(Type)	(Date) (Treatment)
•	Last Physical Exam:	Last PPD:
-	(Date)	(Date/Results)
4 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2		Treatment:
		(Date Started/Stopped)
*	Special Diet?: No Yes (Des	scribe) V Salt V Salt
****	Hospitalized within past year?:	Yes Yes
		al Problem
	If yes, date of last hospitalization:	m i rodom
	Psychotropic Medication Within Past Year?	No Yes
	Self Injurious or Suicidal Behavior Within Past Yo	ear?:
	If Yes,	
	Dates:	
	Currently on Suicide Watch/Precautions?:	No Yes

#### PSYCHIATRIC EVALUATION FORM

EVALUATION FORM
Mental Status Examination:
Appearance and Behavior: Web Mult Alaco Acover
Mood and Affect: S/. dysphore
Speech and Language: De of efferm. in flecture, though not Chambrially 50-
The state of the s
Cognitive Assessment/Memory: 10 folly unfind Sentered, discount to
Cognitive Assessment/Memory: _ (O fally unfine souther), discounted,
magnitudigement
Sleep/Appetite:
Suicide/Violence Risk Assessment:
Past Suicidal Ideation/Attempts (dates and methods):
1 yrs ke-mamplex
Current Suicidal Ideation and Behavior:
Donar
Past Violent/Assaultive Behavior:
Assold and I spood a reserver
Current Violent/Assaultive Ideas/Behavior:
- Dinis
Diagnostic Impression
Axis I: Septem 1005 Cendar Tolanty Olsader NOS
Axis II: PINOS
Aris III: Arthury PUD & Premon Ty for Gende JD. 155her
Alls IV: Micrealis
Axis V:
Treatment Recommendations (including medications/labs ordered/special housing)
The state of the s
Specific prophile on the president of the the sun, not mental Health Collect a SMI of the president on to the These seconds
Mental Health Colle: SMI Gay Specialized M H TX The paper Recorded Paychiatric Follow-Up Required Within: 1/2 Days
Compositional Services (0/25/04)
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SDANSON, ROMAN AISH
166287
ALDOC Form 455-01

#### ALABAMA DEPARTMENT OF CORRECTIONS MENTAL HEALTH SERVICES

	PSYCHIATRIC E	VALUATION FOR	one /	,
Referred by:	Page	1 of 2	4//4/	28
☐ Admission to Institution ☐	Mental Health Staff	☐ Medical Staff	Other	70
Reason for Referral (Presenting)	Problem):			***************************************
	90 2az	with (	Prince 757B	10
Psychiatric History (inpatient/out	tpatient/dates of treati	ment/medications pro	escribed):	
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Substance Abuse History:	Premoin	1.25 18.16		enter by por ma Below
substance andse mistory:				0A12
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Pertinent Personal/Family Histor	y (inmate's sentence):			
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Tous Rec/ Estate c par	by Suppostati			
Institutional Adjustment (curren	t placement):	7		
Countrel	Asolt. 2nd	Houshu Co	Seut.	50
Limate Name Johnson,	Renaul		AIS#1662	37

ALDOC Form 455-01

## *ONFIDENTIAL MEDICAL RECORDS

#### ALABAMA DEPARTMENT OF CORRECTIONS MENTAL HEALTH SERVICES PSYCHIATRIC EVALUATION

PAGE 2	•
Mental Status Examination: Up ( colculate.  Appearance and Behavior:	
Mood and Affect: Futhymic, full range ( some	what elaborate)
Speech and Language: Overproductive, spontaneous.	
Thought Process: Logical, coherent.	
Thought Content and Perceptions: Denies halla. No ev	idence delusions.
Cognitive Assessment: B, S. Biology, Parolegal, real	estate investments
Insight/Judgement:	
Suicide/Violence Risk Assessment:	
Past Suicidal Ideation/Attempts (dates and methods): $\frac{Considered}{X}$	· · · · · · · · · · · · · · · · · · ·
Current Solcidal Ideation and Behavior: Denies	
Past Violent/Assaultive Behavior: "Verbally agressive	
Current Violent/Assaultive Ideas/Behavior: Denies	
Diagnostic Impression	
Axis I: Gender Identity % - Depression, Anxie	4.
Axis III: PUO, Arthritis (HIN from Effexor)	
Axis IV: Incarceration GID	
Axis V: 75/75	
Treatment Recommendations Grade 2	
Treatment Recommendations (including medications/labs ordered/special Continue Prozac & Well	housing) butrin.
Consider groups.	
MHP/Psychologist for individual work.	
Stress & anger mamt group.	
Psychiatric Follow-Up Required Within: 30 Days	
40 8	
N. (oarnshaw MD Psychiatrist Signature	12-3-04
	Date
humate Name	AIS#
Le Johnson Keraul	166237
	ALDOC Form 449-05 (Page 2 of 2)



# CONFIDENTIAL MEDICAL RECORDS

	PHYSICIANS' ORDERS
NAME: JOHNSON, KENAUL  D.O.B.  ALLERGIES: PHYTOITH  Use Last  Date  1  Date  1  Date  Date	DIAGNOSIS (If Chgid) 1550 mg / 2 hb po AT + 365 drys 12 ZANTAC 150 mg 7 DI DIN X365 drys 131 O VATR 40 mg of DIAFS QUAX 365 drys BY Albuturo 17 gm TI DIAFS QUAX 365 drys BY GENERIC SUBSTITUTION IS NOT PERMITTED MALL (4)
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NAME: Johnson, Remail  166237  D.O.B. Y/14/18  ALLERGIES: Pyridium  Date II / 14 / 15	DIAGNOSIS  Scholoth Pre Prim 20/200 OS & H/NS  Profile to Moved amone d/k Asilman
Use First Date 1 / 1 / 1 / 1 / 1 / 1 / 1 / 1 / 1 / 1	☐ GENERIC SUBSTITUTION IS NOT PERMITTED

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### ALABAMA DEPARTMENT OF CORKLATIONS MENTAL HEALTH SERVICES RECEPTION MENTAL HEALTH SCREENING

Institution: KILBY Date/Time Inmate Received:
Date/Time of Screening. // Signature / Title of Screener: Zolondon in the Company of the Company
$\mathcal{L}$
to les • No Psychotropic Medication:
Yes No Medication turned over to a DOC upon arrival?
Yes No Mental Health follow – up in last 90 days:
THE MAINLEST
MENTAL HEALTH HISTORY Does inmate report a history of the following (if yes, provide details):
A Des I No Outpatient treatment: //www.ass Ipoctal (all - CX)
/ Yes No Inpatient treatment:
Pes Do Psychotropic Medication: 4 ALYO / Many
Pes ANO Suicidal Attempts:
Des I No Suicidal Thoughts: 15 CM 5 agr Chant pand from
Yes Wo Head injury:
n Yes No Seizures:
₩Yes/u No Violent Behavior:
Yes dyna Substance Abuse:
TES BARO Substance Abuse Medicine.
Tes No Special Education classes: 9 115 100 199
THE COLD DEPORT OF CHERENT STATUS () / // //
INMATE SELF - REPORT OF CURRENT STATUS  Yes No First incarceration (reaction):
The No Reports family support: The fire formedy & Community
Yes & No Reports serious depression/remorse:
Yes KNo Thinking about suicide: 1 lences being bulled about suicide:
Yes ( No Has plan for suicide:
□ Yes ♥ No Possible to implement plan:
□ Yes \ No Reports hallucinations:
BEHAVIORAL OBSERVAIONS
□ Poor eye contact □ Poor hygiene □ Unable to pay attention □ Unresponsive
□ Disorientated □ Overly anxious □ Unable to follow directions□ Unable to read  □ Memory deficits □ Signs of self-mutilation □ Afraid
Crying I Helitory delices I Delights of Salt Hadden Promotion
D IIIOGICAL Speech Content. II Appears to be nearing follows of freeing a missing
Hostile    Other unusual behavior:
The second secon
DISPOSITION PLACEMENT RECOMMENDATION (Based on recoption mental health screening)  Routine housing and mental health follow-up  Before gency mental health referred
Priority mental health follow-up but not emergency
Current Psychotropic meds verified/interim supply ordered    Parole violator interim assessment referral
Inmate Name: AIS#16.60.2370
1/2/19 Muson, / Lenaux / 6 40 / 13
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overum teolit 8 FileFolle05/005/029/027007 PalPaccel Colf 691°691°6 DEPARTMENT OF C **LECTIONS** MENTAL HEALTH SERVICES REFERRAL TO MENTAL HEALTH Inmate Name:_ do23 Date of Referral REASON FOR REFERRAL: ONFIDENTIAL MEDICAL REC CRISIS INTERVENTION ☐ Family problem: 1 D Problems with other inmates: ☐ Recent stress:____ O Other: EVALUATION OF MENTAL STATUS O Suicidal O Anxious O Homicida O Physical complaints Depressed. O Mutilative O Sleep disturbance O. Withdrawn D Hostile, angry Hallucinations/delusions Other inappropriate behavior. O Poor hygiene O Suspicious . EVALUATION OF NEED FOR PSYCHIATRIC EVALUATION 0 HISTORY OF PSYCHOTROPIC MEDICATION PRIOR TO RECEPTION/TRANSFER COMMENTS: - B - Referral for psychializer (reterral has been screened by mental health or medical staff) MENTAL HEALTH FOLLOW-UP; EVALUATION/TREATMENT/DISPOSITION

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MHM Correctional Follow-Up by: Dr. Joseph Med	Services	Date:	00/25/04	
Johnson, Ro	2001 ·		St 1/62 20	
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